

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0167V

Filed: December 27, 2016

UNPUBLISHED

MELISSA LOPEZ and ADAM
GONZALEZ, on behalf of L.G., a minor

Petitioners,
v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Damages Decision Based on Proffer;
Rotavirus Vaccine; Intussusception;
Bowel Resection; Special Processing
Unit ("SPU")

John Robert Howie, Jr., Howie Law, P.C., Dallas, TX, for petitioners.

Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On February 3, 2016, Melissa Lopez and Adam Gonzalez ("petitioners") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioners alleged that L.G. suffered intussusception, bowel resection, and the sequela as a result of a rotavirus vaccine L.G. received on April 9, 2015, when L.G. was four months old. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 20, 2016, a ruling on entitlement was issued, finding petitioners entitled to compensation. On December 22, 2016, respondent filed a proffer on award of compensation ("Proffer") indicating petitioners should be awarded funds to satisfy the State of Colorado Medicaid lien in the amount of \$15,465.80, and an amount sufficient

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

to purchase the annuity contract described in section I.B. of the Proffer (1. \$19,602.14 payable in a certain lump sum on 11/26/2035, 2. \$21,602.10 payable in a certain lump sum on 11/26/2038, and 3. \$23,830.63 payable in a certain lump sum on 11/26/2041). Proffer at 1-3. In the Proffer, respondent represented that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards the following:**

- A. A lump sum payment of \$15,465.80. representing compensation for satisfaction of the State of Colorado line, payable jointly to petitioners and**

**Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203-1818
Attn: Ron Vialpando
State I.D. No.: O815467**

Petitioner agrees to endorse this payment to the State of Colorado.

- B. An amount sufficient to purchase an annuity contract described in section I.B. of the Proffer. The annuity will provide payments to L.G. as set forth below, and subject to the terms and conditions in the Proffer:**

- 1. \$19,602.14 payable in a certain lump sum on 11/26/2035.**
- 2. \$21,602.10 payable in a certain lump sum on 11/26/2038.**
- 3. \$23,830.63 payable in a certain lump sum on 11/26/2041.**

This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.